

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

YUSUF BILAAL aka,)	CASE NO. 3:05 CV 1733
DANIEL P. McKINNEY,)	
)	
Petitioner,)	
)	
v.)	JUDGE DONALD C. NUGENT
)	
JOHN COLEMAN, Warden)	
)	<u>MEMORANDUM OPINION</u>
Respondent.)	<u>AND ORDER</u>

This matter comes before the Court upon the Report and Recommendation of Magistrate Judge George J. Limbert. The Report and Recommendation (ECF #61), issued on May 30, 2012, is ADOPTED by this Court. Petitioner filed a motion for relief from judgment under Federal Rule of Civil Procedure 60(b)(6), alleging that the state Court erred in denying Petitioner's petition for habeas corpus. Specifically, Petitioner contends that the Court erred by ruling that he was procedurally barred from raising a Sixth Amendment claim alleging that he was denied his right to be present at every critical stage of his trial. Magistrate Judge Limbert found that Petitioner's 60(b)(6) motion was untimely or, in the alternative, that it fails to state "exceptional and extraordinary circumstances" as required for relief under Rule 60(b)(6). *Export-Import Bank of U.S. v. Advanced Polymer Sciences, Inc.*, 604 F.3d 242, 247 (6th Cir. 2011). Petitioner failed to raise his Sixth Amendment argument on direct appeal as required, and instead did not raise it until the case reached the Ohio Supreme Court. Petitioner provided no exceptional reasons for why he failed to do this.

The Petitioner sought and received an extension of time to file his objections to the Magistrate's Report and Recommendation. However, the objections were filed three days past the extended deadline, and were therefore untimely. Nonetheless, the Court has reviewed *de novo* those portions of the Magistrate Judge's Report and Recommendation to which objection have been made. *See* Fed. R. Civ. P. 72(b). The Court finds the Report and Recommendation to be well-supported and correct. The Court finds that Petitioner's objections, even if they had been timely filed, raise no arguments (factual or legal) that have not been fully addressed by the Magistrate's Report and Recommendation. Therefore, this court ADOPTS the Magistrate's Report in its entirety. Petitioner's motion for relief from judgment is DENIED.

IT IS SO ORDERED.

/s/ Donald C. Nugent
DONALD C. NUGENT
United States District Judge

DATED: July 23, 2012